

DRELB108

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RELATING TO TELEHEALTH; AMENDING SECTION 54-5702, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5703, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-5704, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-5705, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-5706, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-5707, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-5708, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-5709, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-5710, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-5711, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5712, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-5713, IDAHO CODE, TO REVISE TERMINOLOGY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-5702, Idaho Code, be, and the same is hereby amended to read as follows:

54-5702. LEGISLATIVE FINDINGS. The legislature hereby finds the following:

(1) Telehealth services enhances access to health care, makes delivery of health care more cost-effective, and distributes limited health care provider resources more efficiently.

(2) Citizens with limited access to traditional health care may be diagnosed and treated sooner through telehealth services than they would be otherwise, resulting in improved health outcomes and less costly treatments due to early detection and prevention.

(3) Telehealth services addresses an unmet need for health care by persons who have limited access to such care due to provider shortages or geographic barriers.

(4) Telehealth ~~services~~ provides increased capacity for appropriate care in the appropriate location at the appropriate time to better serve patients, providers, and communities.

(5) When practiced safely, telehealth services results in improvement in health outcomes by expanding health care access for the people of Idaho.

SECTION 2. That Section 54-5703, Idaho Code, be, and the same is hereby amended to read as follows:

54-5703. DEFINITIONS. As used in this chapter:

(1) ~~"Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider~~

1 ~~at a distant site over a secure connection that complies with state and fed-~~
2 ~~eral security and privacy laws.~~

3 ~~(2) "Distant site" means the site at which a provider delivering tele-~~
4 ~~health services is located at the time the service is provided.~~

5 ~~(3) "Originating site" means the location of a patient at the time tele-~~
6 ~~health services are provided.~~

7 ~~(4) "Provider" means a person who is licensed, required to be licensed,~~
8 ~~or, if located outside of Idaho, would be required to be licensed if located~~
9 ~~in Idaho, pursuant to title 54, Idaho Code, to deliver health care consistent~~
10 ~~with his or her license.~~

11 ~~(5) "Synchronous interaction" means real-time communication through~~
12 ~~interactive technology that enables a provider and a patient at two (2) lo-~~
13 ~~cations separated by distance to interact simultaneously through two-way~~
14 ~~video and audio or audio transmission.~~

15 ~~(6) "Telehealth services" means health care services provided by a~~
16 ~~provider to a person through the use of electronic communications, infor-~~
17 ~~mation technology, asynchronous store and forward transfer or synchronous~~
18 ~~interaction between a provider at a distant site and a patient at an origi-~~
19 ~~inating site. Such services include, but are not limited to, clinical care,~~
20 ~~health education, home health and facilitation of self-managed care and~~
21 ~~caregiver support the use of synchronous or asynchronous telecommunica-~~
22 ~~tions technologies by a telehealth provider to provide to a patient health~~
23 ~~care services, including, but not limited to, assessment of, diagnosis of,~~
24 ~~consultation with, treatment of, and monitoring of a patient; transfer of~~
25 ~~medical data; patient and professional health-related education; public~~
26 ~~health services; and health administration. The term "telehealth" does not~~
27 ~~include audio-only telephone calls, electronic mail messages, or facsimile~~
28 ~~transmissions.~~

29 ~~(3) "Telehealth provider" means a provider who provides telehealth.~~

30 ~~(4) "Telehealth technologies" means synchronous or asynchronous~~
31 ~~telecommunications technologies capable of assisting telehealth providers to~~
32 ~~provide to patients health care services, including, but not limited to, as-~~
33 ~~essment of, diagnosis of, consultation with, treatment of, and monitoring~~
34 ~~of a patient; transfer of medical data; patient and professional health-re-~~
35 ~~lated education; public health services; and health administration.~~

36 SECTION 3. That Section 54-5704, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 54-5704. SCOPE OF PRACTICE. A telehealth provider ~~offering telehealth~~
39 ~~services~~ must at all times act within the scope of the provider's license and
40 according to all applicable laws and rules, including, but not limited to,
41 this chapter and the community standard of care.

42 SECTION 4. That Section 54-5705, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 54-5705. PROVIDER-PATIENT RELATIONSHIP. (1) If a telehealth provider
45 ~~offering telehealth services in his or her practice~~ does not have an estab-
46 lished provider-patient relationship with a person seeking such services,

1 the provider shall take appropriate steps to establish a provider-patient
2 relationship by use of ~~two-way audio and visual interaction~~ telehealth tech-
3 nologies sufficient to conduct a patient evaluation and appropriate to di-
4 agnose and treat the patient; provided however, that the applicable Idaho
5 community standard of care must be satisfied. Nothing in this section shall
6 prohibit electronic communications:

7 (a) Between a provider and a patient with a preexisting provider-pa-
8 tient relationship;

9 (b) Between a provider and another provider concerning a patient with
10 whom the other provider has a provider-patient relationship;

11 (c) Between a provider and a patient where the provider is taking call
12 on behalf of another provider in the same community who has a provider-
13 patient relationship with the patient; or

14 (d) In an emergency.

15 (2) As used in this section, "emergency" means a situation in which
16 there is an occurrence that poses an imminent threat of a life-threatening
17 condition or severe bodily harm.

18 SECTION 5. That Section 54-5706, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 54-5706. EVALUATION AND TREATMENT. Prior to providing treatment,
21 including a prescription drug order, a telehealth provider shall obtain
22 and document a patient's relevant clinical history and current symptoms to
23 establish the diagnosis and identify underlying conditions and contraindi-
24 cations to the treatment recommended. Treatment recommendations provided
25 through telehealth ~~services~~ shall be held to the applicable Idaho community
26 standard of care that applies in an in-person setting. Treatment based
27 solely on an online questionnaire does not constitute an acceptable standard
28 of care.

29 SECTION 6. That Section 54-5707, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 54-5707. PRESCRIPTIONS. (1) A telehealth provider with an established
32 provider-patient relationship, including a relationship established pur-
33 suant to section 54-5705, Idaho Code, may issue prescription drug orders
34 using telehealth ~~services~~ within the scope of the provider's license and ac-
35 cording to any applicable laws, rules, and regulations, including the Idaho
36 community standard of care; provided however, that the prescription drug
37 shall not be a controlled substance unless prescribed in compliance with 21
38 U.S.C. section 802(54)(A).

39 (2) Nothing in this chapter shall be construed to expand the prescrip-
40 tive authority of any provider beyond what is authorized by the provider's
41 licensing board.

42 SECTION 7. That Section 54-5708, Idaho Code, be, and the same is hereby
43 amended to read as follows:

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DRELB108

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1 54-5708. INFORMED CONSENT. A patient's informed consent for the use of
2 telehealth ~~services~~ shall be obtained as required by any applicable law.

3 SECTION 8. That Section 54-5709, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 54-5709. CONTINUITY OF CARE. A telehealth provider of ~~telehealth ser-~~
6 ~~vices~~ shall be available for follow-up care or to provide information to pa-
7 tients who make use of ~~such services~~ telehealth.

8 SECTION 9. That Section 54-5710, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 54-5710. REFERRAL TO OTHER SERVICES. A telehealth provider shall be
11 familiar with and have access to available medical resources, including
12 emergency resources near the patient's location, in order to make appropri-
13 ate patient referrals when medically indicated.

14 SECTION 10. That Section 54-5711, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 54-5711. MEDICAL RECORDS. ~~Any A telehealth provider offering tele-~~
17 ~~health services as part of his or her practice~~ shall generate and maintain
18 medical records for each patient using ~~such telehealth services~~ in compli-
19 ance with any applicable state and federal laws, rules, and regulations,
20 including the health insurance portability and accountability act (HIPAA),
21 P.L. 104-191 (1996), and the health information technology for economic and
22 clinical health act (HITECH), P.L. 111-115 (2009). Such records shall be ac-
23 cessible to other providers and to the patient in accordance with applicable
24 laws, rules, and regulations.

25 SECTION 11. That Section 54-5712, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 54-5712. ENFORCEMENT AND DISCIPLINE. A provider is prohibited from
28 offering telehealth ~~services in his or her practice~~ if the provider is not
29 in full compliance with applicable laws, rules, and regulations, including
30 this ~~act~~ chapter and the Idaho community standard of care. State licensing
31 boards shall be authorized to enforce the provisions of this chapter relat-
32 ing to the practice of individuals they license. A provider who fails to
33 comply with applicable laws, rules, and regulations is subject to discipline
34 by his or her licensing board.

35 SECTION 12. That Section 54-5713, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 54-5713. RULEMAKING. Any board authorized by title 54, Idaho Code, to
38 license providers may promulgate rules relating to telehealth ~~services~~ pur-
39 suant to this chapter and consistent with the provisions contained herein.